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June 27, 2003

VIA ECFS

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, D.C. 20554

Re: Ex Parte Communication in CS Docket No. 97-80 (Commercial Availability of Navigation Devices); PP Docket No. 00-67 (Compatibility Between Cable Systems and Consumer Electronics Equipment); and MB Docket No. 03-15 (Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television).

Dear Ms. Dortch:

On June 26, 2003, Miles Circo, Vice President and Chief Technology Officer, and Jean Cantrell, Manager, Government Affairs, Circuit City Stores, and the undersigned, all on behalf of the Consumer Electronics Retailers Coalition (CERC); and Adam Goldberg, Director, Television Standards and Policy Development, Sharp Laboratories, met with Commissioner Abernathy and Stacy Robinson; Commissioner Martin and Catherine Bohigian; and Johanna Mikes, Legal Advisor to Commissioner Adelstein. The purpose of the meetings was to assert the vital importance to consumer electronics retailers of expeditious action by the Commission on the Further Notice of Proposed Rulemaking in these Dockets, and to urge approval by the Commission of the matters noticed in the FNPRM. Mr. Goldberg answered questions, from the standpoint of a manufacturer participant in "Plug & Play" negotiations, as to matters covered by the FNPRM.

CERC underscored its unqualified endorsement of the "Plug & Play" proposals on which comment has been sought. Its representatives and Mr. Goldberg urged implementation by the Commission on the most expeditious basis possible. The CERC representatives left behind the attached Talking Points and Time Line, which convey the substance of what was discussed.

This letter is being provided to your office in accordance with Section 1.1206 of the Federal Communications Commission rules. A copy of this letter has been delivered to the parties listed below.

Very truly yours,

Robert S. Schwartz
Robert S. Schwartz

cc: Commissioner Abernathy
Commissioner Martin
Catherine Bohigian
Johanna Mikes
Stacy Robinson

attach./

Consumer Electronics Retailers Coalition



Companies: Best Buy, Circuit City, Good Guys, RadioShack, Sears, Tweeter, Ultimate Electronics

Associations: International Mass Retail Association, National Retail Federation, North American Retail Dealers Association

CERC is an incorporated association devoted to public policy issues of concern to the retail consumer electronics and information technology businesses.

CERC Supports Expeditious Issuance Of All Of The Proposed Regulations On Which Comment Was Requested In Dockets 97-80 And 00-67 On January 10.

- ◆ The proposed technical regulations are essentially non-controversial.
- ◆ Expeditious action by the Commission will allow manufacturers, at slight additional cost, to build cable tuners into devices subject to the Commission's off-air tuner mandate that is effective July 1, 2004. Delay beyond a July/August framework for approval will forego these efficiencies and impose unnecessary costs on most consumers.
- ◆ The availability to consumer electronics and information technology manufacturers of the "DFAST License" is essential for the development, production, and marketing of devices that work on digital cable systems, offer home network interoperability, and support consumer home recording. *Unless such devices are available, most consumers will be denied the benefits of competition and innovation in the digital transition.*
- ◆ The Congress instructed the Commission in 1992 and 1996 to achieve and assure such competitive entry in its regulations. The Commission's prior ruling that copy protection may be addressed in Commission rules as a subset of conditional access leaves *availability of the DFAST license as the only viable public policy outcome* that will meet these objectives laid down by Congress for the Commission.
- ◆ Previous statements and filings by motion picture interests have asserted specifically that these interests will support competition among devices only in the context of a *single "encoding rule" regime* applicable to all MVPD devices.
- ◆ Unless these issues are settled expeditiously in the context of FCC regulations, as jointly recommended, there will be little progress toward digital cable competition and interoperability in the devices stocked by consumer electronics retailers.

Consumer Electronics Retailers Coalition



Timeline -- CE Retailer Aspirations For Competitive Entry, Digital Cable Products

- 1992: *Section 624A*, Congress directs FCC to “issue such regulations as are necessary” to assure CE / cable compatibility, and to specify “cable ready” requirements.
- 1996: *Section 629*, Congress directs FCC to “in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability [of devices] used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor.”
- 1998: FCC issues R&O, Docket No. 97-80, accepting CableLabs offer to develop and administer standards and licensing, issues regulations, 76.1201- 1204 governing license impositions on competitive entrants; declares “right to attach” as of 7/1/00. (No entry occurs on or after 7/1/00.)
- 2000: To resolve controversy over whether provisions of CableLabs draft “DFAST” license related to copy protection are within 76.1201 - 1204, FCC issues “Declaratory Ruling,” states that “[s]ome measure of anti-copying encryption is, we believe, consistent with the intent of the rules *** Should additional evidence indicate that content providers are requiring disparate measures of copy protection from different industry segments, the Commission will take appropriate action.”
- 2002: FCC issues *Dual Tuner* mandate, requiring an ATSC tuner in any product with an NTSC tuner, on phased-in basis to start 7/1/04. Commissioners cite consumer efficiencies of including digital cable tuner in product on same schedule.
- 2002: Major CE manufacturers and cable operators reach agreement on version of DFAST License that encourages competitive entry and innovation in non-proprietary devices, and draft technical regulations that would assure consumer operation of devices subject to “right to attach.” MSO product support and CE product labeling geared to same schedule as “dual tuner” mandate. However, “DFAST” license, with “Compliance Rules” that enable such innovation, is only available once regulations, including copyright issue “encoding rules,” are adopted by Commission.
- 2003: FCC issues FNPRM 1/10/03 in Dockets 97-80 and 00-67; parties begin “Phase II” negotiations. CE manufacturers cite need for 7/03 DFAST license if 7/1/04 date for products with ATSC/digital cable tuners is to be met.